No. 137.

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Motion by O. & E. to dismiss.

NOV 1 1897
JAMES H. McKENNEY
Clerk

# SUPREME COURT

Filed Nov. 1, 1897.

## OF THE UNITED STATES.

OCTOBER TERM, 1897.

No. 137.

THE STEAMER "WILLIAM M. HOAG," OREGON CENTRAL & EASTERN RAILROAD COMPANY,
*Claimant and Appellants,*
*v.*
R. J. YOUNG, M. BELL, C. A. BELL, H. ROBERTSON, W. HOWELL, H. W. SUTTON, D. LATEREAUX, A. SENN, W. YOUNG, JACOB MULTHAUF, WALTER KAISER, JAMES CLUNE, OTIS COLE, A. EPPERLY and GEORGE RAABE.
*Libellants and Respondents.*

Motion to Dismiss Appeal.

Now come the respondents, by their counsel appearing in their behalf, and move the court to dismiss the appeal in the above-entitled cause upon the following grounds:

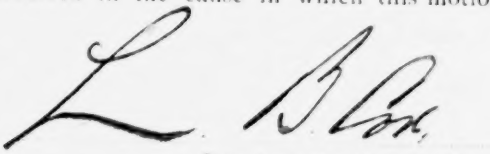
FIRST. That this court has no jurisdiction of the said appeal for the reason that as appears from the record

the District Court of the United States, for the District of Oregon, had jurisdiction of the said cause, and the jurisdiction of the said court was not in issue in the said cause and no question concerning the jurisdiction of the said District Court is presented by this appeal.

SECOND. For the reason that no question concerning the jurisdiction of the District Court of the United States, for the District of Oregon, over said cause, has been certified to this court from the said District Court for decision.

THIRD. For the reason that no question concerning the jurisdiction of the District Court of the United States, for the District of Oregon, over said cause, has alone been certified to this court from the said court for decision, but, on the contrary, the matter undertaken to be certified to this court by the said District Court involves questions not relating to the jurisdiction of said District Court over this cause.

This motion is made upon the facts appearing in the allowance of appeal and certificate of the District Judge found on page 27 of the printed transcript of record in the case of the Oregon Central & Eastern Railroad Company v. R. J. Young et al., being case No. 138 in the docket of the present term of this Court, it being stipulated, as appears by reference to page 36 of the said printed transcript in said cause 138, that the decision in said case 138 shall determine the issues and points involved in the cause in which this motion is made.



*Proctors for Respondents.*

Due service of the foregoing motion is hereby admitted at Portland, Oregon, this 23rd day of October, 1897, any objection to the time of service of such motion being hereby waived. It is hereby stipulated, by and between the parties hereto, that ~~separate~~ briefs upon said motion need not be served or filed, but that the said briefs upon the motion to dismiss may be made a part of ~~the~~ briefs upon the merits and be served at the time required for the service of said brief upon the merits.

Wm. D. Fenton

*Proctors for Appellants.*

L. B. Cox.

*Proctors for Respondents.*

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FILED
NOV 1 1897
JAMES H. McKENNEY
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No. 138.

Motion by D. C. to dismiss.

IN THE

# SUPREME COURT

Filed Nov. 1, OF THE 1897.

## UNITED STATES.

OCTOBER TERM, 1897.

No. 138.

THE OREGON CENTRAL AND EASTERN RAILROAD COMPANY, Claimant of the Steamer "THREE SISTERS," *Appellant*,

*v.*

R. J. YOUNG, M. BELL, C. A. BELL, H. ROBERTSON, W. HOWELL, H. W. SUTTON, D. LATEREAUX, A. SENN, W. YOUNG, JACOB MULTHAUF, WALTER KAISER, JAMES CLUNE, OTIS COLE and GEORGE RAABE, *Respondents*.

Motion to Dismiss Appeal.

Now come the respondents, by their counsel appearing in their behalf, and move the court to dismiss the appeal in the above-entitled cause upon the following grounds:

FIRST. That this court has no jurisdiction of the said appeal for the reason that as appears from the record

the District Court of the United States, for the District of Oregon, had jurisdiction of the said cause, and the jurisdiction of the said court was not in issue in the said cause and no question concerning the jurisdiction of the said District Court is presented by this appeal.

SECOND. For the reason that no question concerning the jurisdiction of the District Court of the United States, for the District of Oregon, over said cause, has been certified to this court from the said District Court for decision.

THIRD. For the reason that no question concerning the jurisdiction of the District Court of the United States, for the District of Oregon, over said cause, has alone been certified to this court from the said court for decision, but, on the contrary, the matter undertaken to be certified to this court by the said District Court involves questions not relating to the jurisdiction of said District Court over this cause.

The facts upon which this motion is based appear in the allowance of the appeal and certificate of the District Judge found in the printed transcript of record in this cause, commencing on page 27 thereof.

L. B. Cox.

*Proctor for the Respondents.*

Due service of the foregoing motion is hereby admitted at Portland, Oregon, this 23rd day of October, 1897, any objection to the time of service of such motion being hereby waived. It is hereby stipulated, by and between the parties hereto, that separate briefs upon said motion need not be served or filed, but that the said briefs upon the motion to dismiss may be made a part of ~~the~~ briefs upon the merits and be served at the time required for the service of said brief upon the merits.

Wm. D. Wilson

*Proctors for Appellants.*

L. B. Cox.

*Proctors for Respondents.*